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SUBJECT:

Conditional Waiver of Waste Discharge Requirements Related to Timber Harvest Activities Within the Central Valley Region -

BOARD ACTION

Consideration of Adoption of Resolution to Renew Waiver

DISCUSSION:

Resolution No. R5-2003-0005, adopted on 30 January 2003 updated an old limited waiver (for timber harvest plans on private lands only) to include a comprehensive conditional waiver of waste discharge requirements (Waiver) for numerous timber related activities on both federal and private lands. The Timber Waiver as adopted by the Regional Board utilizes existing regulatory programs in place and administered by CDF and the USFS but requires implementation of additional measures (beyond those required by those agencies) where necessary to comply with Basin Plan requirements. The waiver contains detailed eligibility criteria and conditions specific to the type of timber activity proposed. In order to qualify for the Timber Waiver, the project applicant must agree to meet all waiver criteria and conditions. If not, the proposed activity is to be regulated by individual or general WDRs. The Waiver was to expire on 31 January 2005. The Regional Board in January 2005 extended the Waiver expiration date to 30 June 2005.

The timber industry and some environmental groups filed petitions with the SWRCB soon after adoption seeking review of the Waiver. (Some local environmental groups fully supported the Waiver). The SWRCB in January 2004 affirmed the Waiver and stated that the waiver includes specific conditions to ensure compliance with Basin Plan requirements and to prevent discharges that may substantially impact water quality. The environmental petitioners subsequently file a lawsuit in superior court seeking to set aside the Waiver and SWRCB order. The Attorney General's Office, staff counsel and staff are responding to the lawsuit.

Staff maintains that the Timber Waiver provides a "proactive" and effective mechanism of regulating thousands of timber harvest projects submitted annually in the Central Valley Region. The addition of language authorizing the collection of fees (awaiting SWRCB's adoption of a fee schedule), the proposed adoption of Monitoring and Reporting Conditions and the Implementation, Forensic and Effectiveness MRP combine to form a Waiver that is "*in the public interest*" and may be renewed for an additional five years.

RECOMMENDATION:

Adopt the proposed Resolution, the proposed Monitoring and Reporting Conditions and the Draft MRP.

Mgmt. Review _____
Legal Review _____